



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Ricway, Inc.

File: B-270120

Date: November 15, 1995

DECISION

Ricway, Inc. protests the Department of the Navy's acceptance of the apparent low bid submitted by American Construction under invitation for bids (IFB) No. N68711-95-B-7641. Ricway contends that American's bid was late and therefore should have been rejected.

We dismiss the protest.

The IFB called for sealed bids to be opened at 2:00 p.m. on September 19, 1995. Ricway contends that since American's package was not stamped in until 2:01 p.m., the bid should be rejected as late and award made to Ricway as the next low bidder. (Ricway is actually the third low bidder; the second low bidder withdrew its bid).

The Navy advises us that a few minutes before bid opening, American handed its bid and bid envelope separately to the contracting officer. The contracting officer told American that since this procurement was sealed bidding the bid must be in the bid envelope, and handed the package back to American. The contracting officer states that American then placed the bid in the envelope, sealed it, and handed it back to the contracting officer, who stamped the package in just as the time clock clicked to 2:01 p.m. Bid opening then was announced and bids were opened. The Navy's position is that because bid opening had not been announced and American relinquished control of its bid prior to the actual bid opening, the package properly was accepted as timely received. We agree.

While late delivery of a bid generally requires its rejection, even if it is the lowest bid, Hi-Grade Logging, Inc., B-222230, B-222231, June 3, 1986, 86-1 CPD ¶ 514, where the issue is whether a hand-carried bid was timely received, we will consider all relevant evidence in the record bearing on the issue. Boniface Tool & Die, Inc., B-226550, July 15, 1987, 87-2 CPD ¶ 47. Statements by government personnel, for example, may be competent evidence of the time of receipt. Id. 40 Comp.Gen. 709 (1961); Hi-Grade Logging, Inc., *supra*; K.L. Conwell Corp., B-220561, Jan. 23, 1986, 86-1 CPD ¶ 79.

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Here, American submitted its bid by the closing time, and it is evident that had the contracting officer not misdirected American by requesting that the package be placed in the envelope instead of stamping the package and envelope herself, the package would have been stamped prior to the clock moving to 2:01 p.m. In this regard, there in fact is no requirement that a hand-carried bid be in an envelope when it is stamped as received. Federal Acquisition Regulation Subpart 14.3. Under these circumstances, we think American effectively relinquished control of its bid package prior to the bid opening time. Acceptance of the bid does not prejudice other bidders since American could not have had an opportunity to change its bid, and had no other unfair advantage over other bidders. See Baeten Constr. Co., B-210681, Aug. 12, 1983, 83-2 CPD ¶ 203.

The protest is dismissed.

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